



PA 21-4—sHB 6462

*Judiciary Committee*

## **AN ACT CONCERNING USE OF FORCE BY A PEACE OFFICER**

**SUMMARY:** This act delays the effective date of 2020 legislative changes regarding the use of force by law enforcement officers (see BACKGROUND) from April 1, 2021, to January 1, 2022 (PA 20-1, July Special Session (JSS), § 29). Among other things, these provisions (1) limit the circumstances under which a law enforcement officer's use of deadly physical force is justified and establish factors to consider when evaluating whether the officer's action was reasonable and (2) limit when officers may use chokeholds or similar restraints (see BACKGROUND).

The act also modifies the circumstances in which officers are justified in using deadly physical force as established under PA 20-1, JSS, § 29, by, among other things:

1. basing the objective reasonableness standard on the officer's given circumstances at that time;
2. requiring officers to have reasonably determined that no reasonable alternatives exist, rather than having exhausted such alternatives, if using deadly force when making an arrest or preventing escape; and
3. establishing the condition that the escaping person poses a significant threat of death or serious physical injury to others, among other requirements.

It also makes technical and conforming changes.

**EFFECTIVE DATE:** March 31, 2021, for the effective date postponement and January 1, 2022, for the provision modifying the use of deadly force justification.

### **USE OF DEADLY PHYSICAL FORCE**

#### *Objective Reasonableness Standard*

Under PA 20-1, JSS, § 29, one condition that justifies an officer's use of deadly physical force is that the officer's actions are objectively reasonable under the circumstances. This act specifies that the actions must be objectively reasonable given the circumstances at that time.

PA 20-1, JSS, § 29, unchanged by the act, allows officers to use deadly physical force to:

1. defend themselves or a third person from the use or imminent use of deadly physical force or
2. (a) arrest a person they reasonably believe has committed or attempted to commit a felony that involved the infliction of serious physical injury or  
(b) prevent the escape from custody of a person they reasonably believe

## OLR PUBLIC ACT SUMMARY

has committed a felony that involved the infliction of serious physical injury.

As under existing law, officers must reasonably believe the use of force is necessary.

### *Making an Arrest or Preventing Escape*

In situations where an officer is making an arrest or preventing an escape, PA 20-1, JSS, § 29, places additional conditions on when deadly physical force may be used. This act modifies these conditions as follows.

It eliminates the requirement for officers to exhaust reasonable alternatives to the use of deadly force; instead, it requires that they reasonably determine that there are no available reasonable alternatives to using deadly force. Additionally, the act requires that they reasonably believe the force they used does not create unreasonable, rather than substantial, risk to a third party.

*Preventing Escape.* In situations where an officer is preventing an escape, the act additionally establishes the condition that, to justify an officer's use of deadly force, the escaping person must pose a significant threat of death or serious physical injury to others.

## DETERMINING WHETHER DEADLY FORCE WAS REASONABLE

PA 20-1, JSS, § 29, established factors for evaluating whether an officer's use of deadly physical force was objectively reasonable. These factors included, among others, whether the officer's conduct led to an increased risk of the situation that preceded the use of force. This act narrows this factor to whether the officer's unreasonable conduct led to such an increased risk.

## BACKGROUND

### *Law Enforcement Officers*

For purposes of the act, a law enforcement officer includes peace officers (see below), special police officers for the Department of Revenue Services, and authorized officials of the Department of Correction (DOC) or the Board of Pardons and Paroles. By law, the following individuals are designated peace officers: state and local police, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, DOC officials authorized to make arrests in a correctional institution or facility, investigators in the Office of the State Treasurer, Police Officer Standards and Training Council-certified motor vehicle inspectors, U.S. marshals and deputy marshals, U.S. special agents authorized to enforce federal food and drug laws, and certified police officers of a law enforcement unit created and governed under a state-tribal memorandum (CGS § 53a-3(9)).

## OLR PUBLIC ACT SUMMARY

### *Limits on Chokeholds or Similar Restraints*

By law, law enforcement officers are justified in using physical force to the extent they reasonably believe it is necessary to:

1. arrest or prevent the escape from custody of someone they reasonably believe has committed an offense (unless the officers know that the arrest or custody is unauthorized) or
2. defend themselves or a third person from the use or imminent use of physical force while arresting or attempting to arrest someone or preventing or attempting to prevent an escape.

PA 20-1, JSS, § 29, limits when an officer may use a chokehold or similar methods of restraint (i.e., those that are applied to the neck area, impede the ability to breathe, or restrict blood circulation to the brain). It does so by allowing these methods only when the officer reasonably believes they are necessary to defend himself or herself from the use or imminent use of deadly physical force.